

REMARKS

Initially, Applicants would like to express appreciation to the Examiner for the detailed Official Action provided.

Upon entry of the above amendment, claims 3, 4, 14-19, and 27-34 will have been canceled. Accordingly Claims 1, 2, 5-13, 20-26, 35, and 36 are currently pending. Claims 1, 2, 7-13, and 20-26 have been withdrawn from consideration by the Examiner as being directed to a nonelected invention. Applicants respectfully request reconsideration of the outstanding rejections and allowance of claims 5, 6, 35, and 36 in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

The Examiner has rejected claims 3-6, 14, 15, 27, 28, and 33-36 under 35 U.S.C. § 102(e) as being anticipated by SAADAT et al. (U.S. 2004/0138525).

Claims 3, 4, 14, 15, 27, 28, 33, and 34 have been canceled. Accordingly, the rejection of claims 3, 4, 14, 15, 27, 28, 33, and 34 under 35 U.S.C. § 103(a) over SAADAT et al. is now moot.

Further, Applicants respectfully submit that the SAADAT et al. publication fails to show each and every element recited in the claims. In particular, independent claim 5 sets forth an internal treatment apparatus including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body and “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through said flexible tubular body in an area including said distal end face and a side face of said flexible tubular body”. Independent claim 6 sets forth an internal treatment system including, inter alia, a flexible tubular body including a center opening extending through the flexible tubular body; “a

plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through said flexible tubular body in an area including said distal end face and a side face of said flexible tubular body”; a body manipulating device; an endoscope manipulating device; and a surgical instrument manipulating device.

In the Final Official Action, the Examiner has taken the position that the claim language “in an area including said distal end face and said side face” does not distinguish the present invention from the SADAAT et al. reference. Specifically, the Examiner states that the location of the side face is not claimed, and that there is no claim language which precludes the side face of the SADAAT et al. device as reading on the invention.

However, Applicants respectfully submit that the above interpretation is a misreading of the claims. In particular, the apertures of SADAAT et al. extend in an area including the *proximal end* and a side face. In other words, the SADAAT et al. apertures extend from the side face at the proximal end. The SADAAT et al. apertures do not extend from the side face at the distal end, as in Applicants’ invention. The apertures of SADAAT et al. do not extend in an area including the *distal end* and a side face, as claimed.

In this regard, the SAADAT et al. reference discloses a flexible tubular body 10 with a distal end 14 and a proximal end 12. The tubular body includes a center opening 24 at the distal end of the tubular body 10, and a *plurality of circumferential apertures 26 at the proximal end of the tubular body 10*. See particularly figure 2. The center opening 24 is provided at the *distal end* of the body 10. The circumferential apertures 26 are provided at the *proximal end* of the tubular body 10. Figures 25A and 25B also show the tool arms 30 projecting from the circumferential apertures 26 *at the proximal end 12 of the tubular body*. A distal end 34 of the

tool arm 30 projects from the distal end face at the distal end 14 of the tubular body 10. Thus, the tool arm 30 extends through the aperture 26 at the proximal end 12 of the tubular body 10, through the tubular body 10, and through the aperture on the distal end face at the distal end 14 of the tubular body 10.

However, claims 5 and 6 set forth “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through said flexible tubular body in *an area including said distal end face and a side face* of said flexible tubular body”. Thus, claims 5 and 6 specifically claim that the circumferential apertures extend through an area including the distal end face *and* the side face. In other words, the area is an area that includes *both* the distal end face and the side face. Thus, the claimed side face is located *at the distal end face*. Accordingly, Applicants respectfully submit that claims 5 and 6 do, in fact, specifically claim the location of the side face, and that the claims preclude the reading of the claims on the SAADAT et al. device. In particular, the SADAAT et al. device includes circumferential apertures that are located at the *proximal end*. Since the SADAAT et al. circumferential apertures are located in an area including the proximal end *and* a side face, and are not located in an area including the distal end *and* a side face, the claims in fact preclude the SADAAT et al. device.

Thus, since the SAADAT et al. reference discloses a tool arm extending through a side face of the *proximal end* of the tubular body, the SAADAT et al. reference does not disclose a tubular body with the tool arm extending through a side face at the distal end of the tubular body, as claimed.

Therefore, in view of the above noted remarks, it is respectfully submitted that the claim language “in an area including said distal end face and said side face” distinguishes the present invention from the SADAAT et al. reference, that the location of the side face is claimed, and that the claim language precludes the side face of the SADAAT et al. device as reading on the invention.

Therefore, the SAADAT et al. reference does not show an internal treatment apparatus including, inter alia, “a plurality of circumferential apertures through which surgical instruments are inserted for performing a surgical procedure on said target site, each of said plurality of circumferential apertures being provided to extend through said flexible tubular body in an area including said distal end face and a side face of said flexible tubular body”, as set forth in independent claims 5 and 6.

Since the reference fails to show each and every element of the claimed device, the rejection of claims 5 and 6 under 35 U.S.C. § 102(e) over SAADAT et al. is improper and withdrawal thereof is respectfully requested.

Applicants submit that dependent claims 35 and 36, which are at least patentable due to their dependency from claims 5 and 6, respectively, for the reasons noted above, recite additional features of the invention and are also separately patentable over the prior art of record based on the additionally recited features. In particular, Applicants submit that none of the cited prior art teaches or suggests an internal treatment apparatus including “a circumferential opening portion includes said plurality of circumferential apertures, and the circumferential opening portion passes through the apparatus body from a side face of the deflectable portion toward a proximal end face of the apparatus body”, as set forth in claims 35 and 36. In this regard, it is noted that the circumferential apertures of the SAADAT et al. device are positioned at the *proximal end* of

the tubular body. However, in the present invention, the circumferential apertures and the deflectable portion are positioned at the *distal* end of the tubular body, and the circumferential opening portion passes from a side face of the deflectable portion (at the distal end of the tubular body) toward the proximal end of the tubular body. In the SAADAT et al. device, the circumferential apertures are positioned at the *proximal end* of the tubular body. Since the circumferential apertures cannot be positioned *both* at the proximal end of the tubular body and at the distal end of the tubular body, the SAADAT et al. device does not include the circumferential apertures that pass “through the apparatus body from a side face of the deflectable portion toward a proximal end face of the apparatus body”, as set forth in claims 35 and 36. Accordingly, claims 35 and 36 are each separately patentable for these additional reasons.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections, and an early indication of the allowance of claims 5, 6, 35, and 36.

#### SUMMARY AND CONCLUSION

In view of the foregoing, it is submitted that the proposed response is proper for entry since it merely cancels dependent claims, and it is also submitted that none of the references of record, considered alone or in any proper combination thereof, anticipate or render obvious Applicants' invention as recited in claims 5, 6, 35 and 36. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

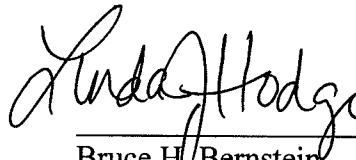
Accordingly, consideration of the present amendment, reconsideration of the outstanding Final Official Action, and allowance of the present amendment and all of the claims therein are respectfully requested and now believed to be appropriate.

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so.

Any amendments to the claims which have been made in this amendment, which do not narrow the scope of the claims, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered cosmetic in nature, and to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below listed number.

Respectfully Submitted,  
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